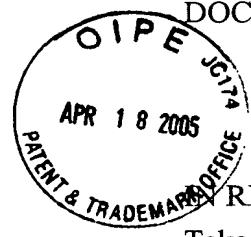


DOCKET NO.: 251383US2CONT/ims

JRW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



RE APPLICATION OF:

Takashi YAMADA, et al.

SERIAL NO: 10/828,337

GROUP: 2811

FILED: April 21, 2004

EXAMINER:

FOR: SEMICONDUCTOR CHIP HAVING MULTIPLE FUNCTIONAL BLOCKS
INTEGRATED IN A SINGLE CHIP AND METHOD FOR FABRICATING
THE SAME

LETTER

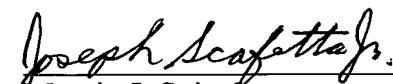
Mail Stop DD
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith is a People's Republic of China Office Action for the Examiner's consideration. The reference(s) cited therein have been previously filed on April 21, 2004.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



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2004.3.22

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PATENT & TRADEMARK OFFICE OF CHINA

THE PATENT OFFICE OF THE STATE INTELLECTUAL PROPERTY OFFICE
OF THE PEOPLE'S REPUBLIC OF CHINA

Address: No.6 Xi Tucheng Lu, Jimeng Qiao Haidian District, Beijing Post code: 100088 P.O.BOX:Beijing 8020

Shanghai Patent & Trademark Law Office

Date of Dispatch
December 24, 2004

Application No.: 02149518.1	Applicant: KABUSHIKI KAISHA TOSHIBA
Application Date: September 27, 2002	Agent:
Title: 半導体装置および半導体装置の製造方法	

NOTICE ON OFFICE ACTION

1. According to the Request for Substantive Examination raised by the applicant and based on the provision of Item 1, Article 35 of the Patent Law, the Examiner has proceeded with the Examination as to Substance on the above mentioned application for patent for invention.
 According to Item 2, Article 35 of the Chinese Patent Law, the Patent Office has decided to examine the above application for patent for invention.
2. The applicant has requested that the filling date of Sep 27, 2001 at the JP Patent Office as the priority date,
_____ at the _____ Patent Office as the priority date,
_____ at the _____ Patent Office as the priority date,
_____ at the _____ Patent Office as the priority date,
 The applicant has already submitted the copy of the first filed prior application document certified by the receiving office of the country where the application was originally filed.
 The applicant has not submitted the copy of the first filed prior application document certified by the receiving office of the country where the application was originally filed. It is deemed not having claimed priority according to the provision stipulated in Article 30 of the Patent Law.
 This application is a PCT application.
3. The applicant submitted on _____ and _____ the amendment documents.
On examination, among them,
the _____ submitted on _____ can not be accepted.
the _____ submitted on _____ can not be accepted.
Because the above amendment
 does not conform with the provisions of Article 33 of the Chinese Patent Law,
 does not conform with the provisions of Rule 51 of the Implementing Regulations of the Chinese Patent Law,
Refer to the text of the Notice for the specific reasons why the amendment cannot be accepted

4. The examination has been proceeded on the original application documents.
 The examination is directed at the following application documents:
 Claim 1-8, page 1-22 of the specification, page ____ of the drawing of the original application documents submitted on the date of filing.
 Claim ____ , page ____ of the specification, page 1-19 of the drawing submitted on Dec 12, 2002.
 Claim ____ , page ____ of the specification, page ____ of the drawing submitted on ____.
 Claim ____ , page ____ of the specification, page ____ of the drawing submitted on ____.
 Abstract of the specification submitted on filng date, the drawing of the Abstract submitted on Dec 12, 2002.
5. This Notice is made under the condition of no search having been conducted.
 This Notice is made under the condition of search having been conducted.
 This Notice has cited the below comparison documents (the number of which shall continue to be used in the subsequent examination procedures):
- | No. | Title of Document | Date of Publication (or the filing date of the conflicting Application) |
|-----|-------------------|---|
| 1 | CN1264157A | 2000-8-23 |
| 2 | | |
| 3 | | |
| 4 | | |
6. The conclusive opinion drawn from the examination:
- As regards the Specification:
 The contents of the application fall under the scope stipulated by Article 5 of the Patent Law for which no patent right shall be granted.
 The specification does not conform with the provision of Item 3, Article 26 of the Patent Law.
 The drafting of the specification does not conform with the provision of Rule 18 of the Implementing Regulations.
- As regards the Claims:
 Claim 1 does not possess the novelty as stipulated in Item 2, Article 22 of the Patent Law.
 Claim 2, 3, 4 does not possess the inventiveness as stipulated in Item 3, Article 22 of the Patent Law.
 Claim ____ does not possess the practical applicability as stipulated in Item 4, Article 22 of the Patent Law.
 Claim ____ falls under the scope of Article 25 of the Patent Law where no patent right is to be granted.
 Claim 5, 20 does not conform with the provision of Item 4, Article 26 of the Patent Law.
 Claim ____ does not conform with the provision of Item 1, Article 31 of the Patent Law.
 Claim ____ does not conform with the definition of invention as stipulated in Item 1, Article 2 of the Implementing Regulations of the Patent Law.
 Claim ____ does not conform with the provision of Item 1, Rule 13 of the Implementing Regulations of the Patent Law.
 Claim 1, 2, 6, 11, 12, 16, 19, 22, 23, 25, 27 does not conform with the provisions of Rules 20 of the Implementing Regulations.

- Claim _____ does not conform with the provisions of Rules 21 of the Implementing Regulations.
 Claim _____ does not conform with the provisions of Rules 22 of the Implementing Regulations.
 Claim _____ does not conform with the provisions of Rules 23 of the Implementing Regulations.
Refer to the text of this Notice for the specific analyses of the conclusive opinion.

7. Based on the above conclusive opinion, the Examiner deems that:

- The applicant shall amend the application documents in accordance with the requirements raised in the text of the Notice.
 The applicant shall discuss in his observations reasons why this application for patent can be granted a patent right, and amend the portions indicated in the text of the Notice which have been deemed as not conforming with the provisions, or no patent right shall be granted.
 There are no substantive contents in the application for patent that can be granted a patent right. If the applicant does not present reasons or the reasons presented are not sufficient, the application shall be rejected.

8. The applicant is asked to note the following items:

- (1) According to the provision of Article 37 of the Patent Law, the applicant shall submit his observations within **four months** from the receipt of this Notice. Where, without justified reasons, the applicant does not respond at the expiration of said date, the application shall be deemed to have been withdrawn
- (2) The applicant shall amend his application according to Article 33 of the Patent Law. The amended documents shall be in duplicate, and the form, in conformity with the relevant provisions in the Examination Guide.
- (3) The applicant and/or his agent can not, without first making an appointment, go to the Patent Office to have an interview with the Examiner.
- (4) The observations and/or the amended documents shall be mailed or delivered to Department of Receipt, the Patent Office of the State Intellectual Property Office. No documents shall possess legal effects if not mailed or delivered to Department of Receipt.

9. The text portion of this Notice totals **3** page(s), and includes the following attachment(s):

- duplicate copy(ies) of cited comparison document(s), altogether **1** copy(ies) **13** pages.

Examination Department: _____ Examiner(Seal): _____

2201 2001.7

P171a



中华人民共和国国家知识产权局

邮政编码: 200233 上海桂平路 435 号 上海专利商标事务所 孙敬国	发文日期
申请号: 021495181 	
申请人: 株式会社东芝	
发明创造名称: 半导体装置和半导体装置的制造方法	

第一次审查意见通知书

1. 应申请人提出的实审请求,根据专利法第 35 条第 1 款的规定,国家知识产权局对上述发明专利申请进行实质审查。

根据专利法第 35 条第 2 款的规定,国家知识产权局决定自行对上述发明专利申请进行审查。

2. 申请人要求以其在:

JP 专利局的申请日 2001 年 09 月 27 日为优先权日,
 专利局的申请日 年 月 日为优先权日,
 专利局的申请日 年 月 日为优先权日,
 专利局的申请日 年 月 日为优先权日,
 专利局的申请日 年 月 日为优先权日。

申请人已经提交了经原申请国受理机关证明的第一次提出的在先申请文件的副本。

申请人尚未提交经原申请国受理机关证明的第一次提出的在先申请文件的副本,根据专利法第 30 条的规定视为未提出优先权要求。

3. 经审查,申请人于:

年 月 日提交的 不符合实施细则第 51 条的规定;
 年 月 日提交的 不符合专利法第 33 条的规定;
 年 月 日提交的

4. 审查针对的申请文件:

原始申请文件。 审查是针对下述申请文件的

申请日提交的原始申请文件的权利要求第 1-28 项、说明书第 1-22 页、附图第 1-19 页;
 2002 年 12 月 12 日提交的权利要求第 项、说明书第 页、附图第 1-19 页;
 年 月 日提交的权利要求第 项、说明书第 页、附图第 页;
 年 月 日提交的权利要求第 项、说明书第 页、附图第 页;

申请日提交的原始申请文件的说明书摘要, 2002 年 12 月 12 日提交的摘要附图。

5. 本通知书是在未进行检索的情况下作出的。

本通知书是在进行了检索的情况下作出的。

本通知书引用下述对比文献(其编号在今后的审查过程中继续沿用):

编号	文件号或名称	公开日期(或抵触申请的申请日)
I	CN 1264157A	2000-08-23

6. 审查的结论性意见:

关于说明书:

申请的内容属于专利法第 5 条规定的不授予专利权的范围。



申请号 021495181

说明书不符合专利法第 26 条第 3 款的规定。

说明书不符合专利法第 33 条的规定。

说明书的撰写不符合实施细则第 18 条的规定。

关于权利要求书:

权利要求 1 不具备专利法第 22 条第 2 款规定的新颖性。

权利要求 2, 3, 4 不具备专利法第 22 条第 3 款规定的创造性。

权利要求 不具备专利法第 22 条第 4 款规定的实用性。

权利要求 属于专利法第 25 条规定的不授予专利权的范围。

权利要求 5, 20 不符合专利法第 26 条第 4 款的规定。

权利要求 不符合专利法第 31 条第 1 款的规定。

权利要求 不符合专利法第 33 条的规定。

权利要求 不符合专利法实施细则第 2 条第 1 款关于发明的定义。

权利要求 不符合专利法实施细则第 13 条第 1 款的规定。

权利要求 1、2、6、11、12、16、19、22、23、25、27 不符合专利法实施细则第 20 条的规定。

权利要求 不符合专利法实施细则第 21 条的规定。

权利要求 不符合专利法实施细则第 22 条的规定。

权利要求 不符合专利法实施细则第 23 条的规定。

上述结论性意见的具体分析见本通知书的正文部分。

7. 基于上述结论性意见, 审查员认为:

申请人应按照通知书正文部分提出的要求, 对申请文件进行修改。

申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。

专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。

8. 申请人应注意下述事项:

(1) 根据专利法第 37 条的规定, 申请人应在收到本通知书之日起的肆个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。

(2) 申请人对其申请的修改应符合专利法第 33 条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。

(3) 申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。

(4) 未经预约, 申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。

9. 本通知书正文部分共有 3 页, 并附有下述附件:

引用的对比文件的复印件共 1 份 13 页。



审查员: 王莹(9558)

2004 年 12 月 9 日

审查部门 审查协作中心

21301
2002.8



回函请寄: 100088 北京市海淀区蔚蓝门桥西土城路 6 号 国家知识产权局专利局受理处收

(注: 凡寄给审查员个人的信函不具有法律效力)

Notification of the First Office Action

Date of Dispatch: December 24, 2004

Chinese Patent Application No. 02149518.1

Applicant: KABUSHIKI KAISHA TOSHIBA

Title of the Invention: SEMICONDUCTOR DEVICE AND MANUFACTURING METHOD
FOR THE SAME

The present invention relates to a semiconductor device and a manufacturing method for the same. Upon examination, the Examiner issued the following comments:

1. Claim 1 is directed to a semiconductor device. Reference 1 (CN1264157A: Japanese Laid-Open No. P2000-243944) also discloses a semiconductor device (see page 4, line 4 - page 6, line 14, and Fig. 8), in particular, discloses technical features including a base substrate (reference numeral 10); a bulk device region having a bulk growth layer on a part of the base substrate (reference numeral 34), the bulk device region having a first device-fabrication surface in which a bulk device is positioned on the bulk growth layer; an SOI device region having a buried insulator (reference numeral 12) on the base substrate and an SOI layer (reference numeral 14) on the buried insulator, the SOI device region having a second device-fabrication surface in which an SOI device is positioned on the SOI layer, a boundary layer (reference numeral 36) located at the boundary between the bulk device region and the SOI device region, wherein the first and second device-fabrication surface being positioned at a substantially uniform level (see Fig. 8). Thus, it can be seen that, Reference 1 has disclosed all the technical features in claim 1, and both belong to the same technical field, and bringing the same technical effects. Therefore, the technical solution in claim 1 does not possess the novelty as stipulated in Item 2, Article 22 of the Patent Law.

2. Dependent Claim 2 has further limited independent Claim 1. However, Reference 1 also discloses the technical features that the

bulk growth layer is a silicon layer, and the boundary layer reaches the base substrate. Comparing the technical features of Claim 2 with Reference 1, difference is seen in the boundary layer which is made of polysilicon or silicon-germanium. However, these features belong things at which a person skill in the art could modify with common design ability. Therefore, when cited Claim 1 does not possess the novelty, said dependent claim does not possess inventiveness as stipulated in Item 3, Article 22 of the Patent Law.

Dependent Claim 3, 4 has further limited "isolation" and a depth, however, the technical means for separating by the isolation whether in bulk device region or SOI region, is in common use in the technical field, and a person skill in the art could obtain the feature that the depth corresponds or reaches to the depth of the insulating film, with common design ability, it is not necessary to spare the creative work for both. Therefore, when cited Claim 1 does not possess the novelty, said dependent claim does not possess inventiveness as stipulated in Item 3, Article 22 of the Patent Law.

3. The technical feature in Claim 5 "pn junction positioned above the interface between the base substrate and the bulk growth layer" disagree with corresponding description in the specification (see page12 line 20-21). Therefore, said claim is not supported by the specification, thus said claim does not comply with the provision of Item 4, Article 26 of the Patent Law.

The technical feature in Claim 20 "providing isolation at the boundary, while" disagree with corresponding description in the specification. Based on the description of the specification, first, removing the sidewall protection film, thereafter isolation at the boundary is provided. Therefore, said claim is not supported by the specification, thus said claim does not comply with the provision of Item 4, Article 26 of the Patent Law.

4. Claims do not conform with the provision of Rules 2o of the Implementing Regulations.

(1) The language "substantially" written in Claim 1, 6 can not become the scope of protection of said claims definite. Therefore, said claims

do not conform with the provision of Rules 20 of the Implementing Regulations.

(2) The term "the first isolation insulating film" is written in Claim 23, however, the term "the first isolation insulating film" has not been written in antecedent sentence and cited Claim 21. Accordingly, said claim do not conform with the provision of Item 1, Rules 20 of the Implementing Regulations.

(3) In Claim 27, the technical feature "fabricating devices at predetermined area in the bulk growth layer and in the SOI substrate" is described, however, "predetermined area in the SOI substrate" has been already written in antecedent sentence, and does not the same area with this area. Therefore, said claim does not conform with the provision of Rules 20 of the Implementing Regulations.

(4) In Claim 19, parentheses is used to the content for non reference numeral of figure. Therefore, said claim do not conform with the provision of Item 4, Rules 20 of the Implementing Regulations.

For the above-mentioned reasons, the present application cannot be granted as such. The applicant should make a response within the specified time limit, and make corresponding amendments by overcoming said defects. Otherwise, the present application will be finally rejected. It is to be noted that, according to Article 33 of the Patent Law, amendments to the application shall not go beyond the original disclosure of the specification and claims.

The following are required to be filled: a copy of the original text being amended, wherein the added, deleted and replaced parts should be marked out and the retyped supplementary pages for replacement of corresponding original text. The consistency of above two parts in terms of content should be ensured.

When making response to the First Office Action, please submit the Search Report when it is applied in the other states or regions and cited non-patent literature.

第一次审查意见通知书正文

申请号：021495181

本发明申请涉及一种半导体装置及其制造方法。经审查，具体意见如下。

1. 权利要求1请求保护一种半导体装置，对比文件1（见说明书第4页第4行—第6页第14行及图8）也公开了这样一种半导体装置，并具体披露了以下技术特征：具有：支持基片（附图标记10）；在上述支持基片上有块状结晶成长的块状成长层（附图标记34），具有在上述块状成长层形成元件的第1元件形成面的块状元件区域；在上述支持基片上有埋入绝缘膜（附图标记12）和该埋入绝缘膜上的SOI层（附图标记14），具有在上述SOI层形成元件的第2元件形成面的SOI元件区域；位于上述块状元件区域和SOI元件区域的边界的边界层（附图标记36），上述第1元件形成面和第2元件形成面，位于大致相同高度（见图8）。可见，对比文件1已经公开了权利要求1的全部技术特征，且对比文件1公开的技术方案与权利要求1请求保护的技术方案属于相同的技术领域、能产生相同的技术效果，因此权利要求1请求保护的技术方案不具备专利法第二十二条第二款规定的新颖性。

2. 从属权利要求2对权利要求1作了进一步限定，对比文件1也公开了其中的技术特征：上述块状成长层是硅层，上述边界层深达上述支持基片。该权利要求的技术方案与该对比文件相比，区别在于：上述边界层是聚硅或硅锗，但这一特征属于本领域技术人员凭借其常规设计能力所能作出的选择。因此当其引用的权利要求1不具备新颖性时，该从属权利要求也不具备专利法第二十二条第三款规定的创造性。

从属权利要求3、4进一步限定了“元件分离”及其深度，但无论在块状元件区还是在SOI区设置元件分离都是本领域惯用的技术手段，而其深度相等或到达绝缘膜深度都属于本领域技术人员凭借常规设计能力所能得到的，均不需要付出创造性劳动。因此当其引用的权利要求1不具备新颖性时，上述从属权利要求也不具备专利法第二十二条第三款规定的创造性。

3. 权利要求5中的技术特征“上述接合面位于上述支持基片和块状成长层的界面上方”，与说明书（见第9页第20—23行）中的相应记载不一致，因此该权利要求没有以说明书为依据，不符合专利法第二十六条第四款的规定。

权利要求20中的技术特征“与上述边界部的元件分离设置的同时”，与说明书中的相应记载不一致，按照说明书的记载，应该先除去所述侧壁保护膜、再设置边界部的元件分离。因此该权利要求没有以说明书为依据，不符合专利法第二十六条第四款的规定。

4. 权利要求1、2、6、11、12、16、19、22、23、25、27不符合专利法实施细则第二十条的规定。

权利要求1、6中出现“大致”，导致上述权利要求的保护范围不能准确确定，不符合专利法实施细则第二十条第一款的规定。

权利要求2、19中出现“聚硅”，该词语不是本领域通用的技术术语，导致上述权利要求不清楚，不符合专利法实施细则第二十条第一款的规定。

权利要求11中的技术特征“上述边界层，在上述第1或第2元件分离中”表述有歧义，可以将其理解为所述边界层是第1元件分离或是第2元件分离，也可以理解为所述边界层形成于所述元件分离之内（由所述元件分离包围），因此该权利要求的保护范围不能准确确定，不符合专利法实施细则第二十条第一款的规定。

权利要求12中出现“上述第2元件分离”，但在其前文以及其引用的权利要求1中并未出现“第2元件分离”；权利要求16中出现“上述硅层和埋入氧化膜”，但在其前文1中并未出现“埋入氧化膜”；权利要求23中出现“上述第1元件分离绝缘膜”，但在其前文以及其引用的权利要求21中并未出现“第1元件分离绝缘膜”。因此上述权利要求不清楚，不符合专利法实施细则第二十条第一款的规定。

权利要求22中的技术特征“包含向相当上述块状成长层SOI基片的边界位置形成元件分离”表述不清楚，“块状成长层”如何相当于“SOI基片”，因此该权利要求是不清楚的，不符合专利法实施细则第二十条第一款的规定。

权利要求25中出现“形成具有比第1宽度狭窄的第1宽度”，表述有误，导致该权利要求不符合专利法实施细则第二十条第一款的规定。

权利要求27有技术特征“在上述块状成长层和上述SOI基片的所定位置形成元件”，因前文中已经出现过“上述SOI基片的所定位置”，且与此处的位置不是同一处，因此该权利要求是不清楚的，不符合专利法实施细则第二十条第一款的规定。

权利要求19中对非附图标记的内容使用括号，不符合专利法实施选择第二十条第四款的规定。

基于上述理由，该申请按照目前的文本不能被授权。申请人应该根据审查意见在指定的四个月答复期限内陈述意见并进行相应的合乎规定的修改，以克服上述缺陷。同时注意修改应满足专利法第三十三条的规定，不要超出原说明书和权利要求书的记载范围。

申请人提交的修改文件应当包括：修改涉及部分的原文复印件，在该复印件上标注出所作的增加、删除或替换；重新打印的替换页（一式两份），用于替换相应的原文。申请人应当确保上述两部分在内容上的一致性。

申请人在答复第一次审查意见通知书时，请一并提交该申请在其他国家或地区专利局为审查其申请而进行检索的检索报告及其所引用的非专利文献。

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第一回審査意見通知書の本文

出願番号:02149518.1

本出願は一種の半導体装置及び製造方法に関するものである。審査により、以下の審査意見を提出する。

1、権利請求項 1 は一種の半導体装置を保護請求する。引例 1 も(明細書第 4 ページ第 4 行—第 6 ページ第 14 行及び図面 8 を参照)一種の半導体装置を開示し、また具体的に、支持基板(図面標記 10)と前記支持基板上にバルク結晶成長させたバルク成長層を有し(図面標記 34)前記バルク成長層に素子が形成される第 1 の素子形成面を有するバルク素子領域と、前記支持基板上に埋め込み絶縁膜(図面標記 12)と当該埋め込み絶縁膜上の SOI 層(図面標記 14)とを有し、前記 SOI 層に素子が形成される第 2 の素子形成面を有する SOI 素子領域と、前記バルク素子領域と SOI 素子領域との境界に位置する境界層と(図面標記 36)を備え、前記第 1 の素子形成面と、第 2 の素子形成面は、ほぼ同じ高さに位置する(図面 8 を参照)という技術特徴を披露した。従って、引例 1 は既に権利請求項 1 の全ての技術特徴を開示し、且つ引例 1 に公開された技術案と権利請求項 1 の保護請求する技術案とは相同的な技術分野に属し、相同的な技術効果が生じるので、権利請求項 1 の保護請求する技術案は特許法第 22 条第 2 項に規定された新規性を有しない。

2、従属権利請求項 2 は権利請求項 1 をさらに限定したが、引例 1 も、前記バルク成長層はシリコン層であり、前記境界層は、前記支持基板に達する深さを有する技術特徴を開示した。該権利請求項の技術特徴は該引例に比べると、その区別は、前記境界層がポリシリコン又はシリコングルマニウムであるところにある。しかしこの特徴は、本分野の技術者が常軌の設計能力によって選択出来るものに属す。よって、引用された権利請求項 1 は新規性を有しない場合、該従属権利請求項も特許法第 22 条第 3 項に規定された創造性を有しない。

従属権利請求項 3、4 はさらに“素子分離”及び深さを限定したが、しかし、バルク素子領域であるか、それとも SOI 領域であるか、素子分離を設置するのは共に本分野の慣用の技術手段で、且つその深さは絶縁膜の深さに相当するのか又は達するのかは共に本分野の技術者が常軌の設計能力によって得られるもので、共に

創造的労働を費やす必要がない。よって、引用された権利請求項1が新規性を有しない場合、上記権利請求項も第22条第3項に規定された創造性を有しない。

3、権利請求項5の中の技術特徴の“前記接合面は、前記支持基板とバルク成長層の界面より上方に位置する”のは、明細書の(第12ページ第20—21行を参照)中の相応の記載と不一致である。よって、該権利請求項は明細書を根拠にしていなく、特許法第26条第4項の規定に合わない。

権利請求項20の中の技術特徴の“前記境界部の素子分離の設置と同時に”のは、明細書の中の相応の記載と不一致で、明細書の記載によれば先ず前記側壁の保護膜を除去して、その後、境界部の素子分離の設置をするのである。よって、該権利請求項は明細書を根拠にしていなく、特許法第26条第4項の規定に合わない。

4、権利請求項は特許法実施細則第20条の規定に合わない。

(1) 権利請求項1、6の中に現われた“ほぼ”は、上記権利請求項の保護請求する技術案を正確に確定できなくし、特許法実施細則第20条第1項の規定に合わない。

(2) 権利請求項23の中に“前記第1素子分離絶縁膜”が現れたが、その前文及び引用された権利請求項21の中に“第1素子分離絶縁膜”が現われたことがない。よって、上記権利請求項は不明瞭で、特許法実施細則第20条第1項の規定に合わない。

(3) 権利請求項27の中に“前記バルク成長層と前記SOI基板の所定位置に素子を形成する”技術特徴を記載されているが前文の中に既に“前記SIO基板の所定の箇所”が現われ、且つこの位置と同一ところではないので、該権利請求項は不明瞭で、特許法実施細則第20条第1項の規定に合わない。

(4) 権利請求項19の中に、非図面標記の内容に括弧を使ったので、特許法実施細則第20条第4項の規定に合わない。

上記理由に基づいて、該出願の目前の書類では特許権の付与ができない。出願者は審査意見に従って、指定された四ヶ月の応答期限内に意見を陳述し、また相応の規定に合う補正を行い、上記欠陥を克服すべきである。そして補正する時、特許法第33条の規定に満足できるように原明細書と権利請求書に記載された範囲

を超えてはならないと注意すべきである。

出願者が提出する補正後の書類の中に、以下のものを含むべきである。補正に関わった部分の原文のコピー、当該コピーに追加、削除又は置き換えたところに印を付ける。改めて置換えページをタイプし(1式2部)、相応の原文の置換えに使われる。出願者は上記2部分の内容上的一致性を確保すべきである。

出願者は第一回審査意見通知書に応答すると共に、該出願の審査をするために、その他の国家と地域の特許局の検索した検索報告及び引用した非特許文献を提出してください。